

**BEFORE THE ARIZONA BOARD OF  
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:	)	Case No. 2639
	)	
PATRICK J. MARSH, D.O.	)	<b>STIPULATION AND CONSENT</b>
Holder of License No. 2502 for the	)	<b>ORDER FOR PROBATION</b>
practice of osteopathic medicine in the	)	
State of Arizona.	)	
_____	)	

**STIPULATION**

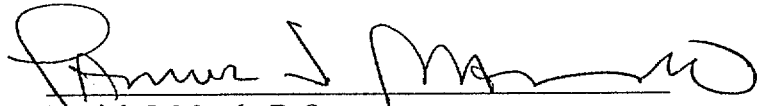
By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Patrick J. Marsh, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board.
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

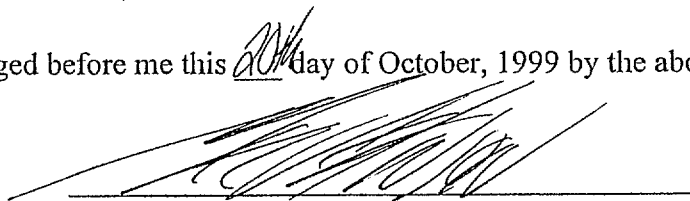
7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, without first obtaining Board approval.

REVIEWED AND ACCEPTED this \_\_\_\_ day of October, 1999.

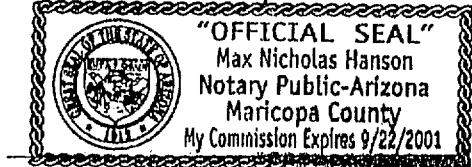
  
Patrick J. Marsh, D.O.

STATE OF ARIZONA            )  
  ) ss  
County of Maricopa         )

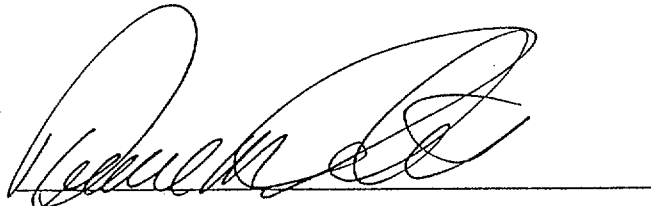
This instrument was acknowledged before me this 20th day of October, 1999 by the above-named individual.

  
Notary Public

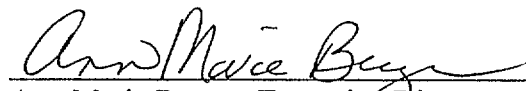
My Commission expires:



REVIEWED AND APPROVED as to form by counsel for Respondent on this \_\_\_\_ day of October, 1999.



REVIEWED AND SIGNED this 22nd day of October, 1999 for the Board by:



Ann Marie Berger, Executive Director  
Arizona Board of Osteopathic Examiners in Medicine  
and Surgery

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**BEFORE THE ARIZONA BOARD OF  
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:	)	Case No. 2639
	)	
PATRICK J. MARSH, D.O.	)	<b>FINDINGS OF FACT,</b>
Holder of License No. 2502 for the	)	<b>CONCLUSIONS OF LAW</b>
practice of osteopathic medicine	)	<b>AND CONSENT ORDER</b>
in the State of Arizona.	)	
_____	)	

**FINDINGS OF FACT**

1. Patrick J. Marsh, D.O., (hereafter "Respondent"), is a licensee of the Board and the holder of License No. 2502.
2. On July 14, 1995 Respondent entered into a Stipulated Consent Order regarding temporary suspension and subsequent terms of probation. The terms of probation were terminated on July 27, 1998.
3. On or about April 29, 1999 the Executive Director received information from the Drug Enforcement Agency that Respondent was acquiring prescription medicine from pharmacies under a false name for personal use.
4. On April 29, 1999, Respondent voluntarily entered into an assessment at Valley Hope Alcohol, Drug and Related Treatment Services. Respondent acknowledged that he had been acquiring controlled substances under a false name for personal use since February 1999.
5. Respondent requested that he enter into a Stipulated Consent Order for assessment and in-patient treatment and having completed such treatment be placed under terms of Probation for a five-year period to include rehabilitation, practice restriction and monitoring. Respondent also

requested that he be able to surrender his Drug Enforcement Agency License.

6. In public session the Board voted on May 4, 1999 that Respondent was medically and/or psychologically unable to engage in the practice of medicine and authorized the Board's Executive Director to sign and issue a Stipulated Consent Order for Suspension of License regarding Respondent

7. After successful completion of an in-patient treatment at Springbrook Northwest, Respondent requested that he be allowed to practice osteopathic medicine under a Stipulated Consent Order for Probation.

8. Respondent appeared before the Board on October 16, 1999 and agreed to the submission of the Stipulated Consent Order for Probation at which time the Board considered and approved the entry of the Stipulated Consent Order for Probation.

#### CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into a stipulated order for final disposition of this case, pursuant to A.R.S. § 41-1061(D), A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854 by violating federal and state statutes and regulations:

(3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.

- (4) Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.
- (5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.
- (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.
- (15) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine except as the same may be necessary for accepted therapeutic purposes.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (20) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.
- (37) Violating a federal law, a state law or a rule applicable to the practice of medicine.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

4. Based upon the Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority to place Respondent's license under terms and

conditions of probation.

### CONSENT ORDER

Pursuant to the authority vested in the Board by A.R.S. § 32-1855 and A.R.S. § 41-1061(D),

#### **IT IS HEREBY ORDERED THAT:**

1. Patrick J. Marsh, D.O. ("Respondent"), Board License Number 2502, will be placed under **PROBATION** for five (5) years and shall comply with the terms and conditions of probation as set forth herein

2. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until he has submitted a written request to the Board and obtained Board approval.

3. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a detailed written progress report every month for the remainder of the probation; and Respondent, shall waive any confidentiality concerning his psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by

Respondent's therapist shall be the sole responsibility of the Respondent.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order. Respondent shall also provide a copy of this Order to all treating physicians and therapists for the remainder of his probation.

5. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (C) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he



is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

7. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. Respondent shall participate in a minimum of two (2) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall keep a log of all meetings attended and have the log signed by the chairperson of the meeting. Respondent will provide the Board with a copy of the signed log the first of every month.

9. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

10. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

11. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

12. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances.

13. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

EFFECTIVE this 22nd day of October, 1999.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY

By: Ann Marie Berger  
Ann Marie Berger, Executive Director

Served by personal service or  
sending U.S. certified mail  
this 27<sup>th</sup> day of ~~May~~ October, 1999 to:

Patrick J. Marsh, D.O.  
6745 E. Superstition Springs Blvd #1025  
Mesa AZ 85206

Copy mailed this 29<sup>th</sup> day of ~~May~~ October, 1999 to:

Dwane M. Cates, Esq.  
6607 N. Scottsdale Rd., Suite H-102  
Scottsdale AZ 85250

Blair Driggs  
Assistant Attorney General  
Office of the Attorney General  
1275 W. Washington  
Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy  
5060 N. 19th Ave., Suite 101  
Phoenix AZ 85015

Drug Enforcement Administration  
Attention: Diversion Section  
3010 N. 2nd St  
Phoenix AZ 85012

Susan Miller

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